

## Message Text

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ACTION EB-07

INFO OCT-01 IO-13 ISO-00 AF-10 ARA-10 EA-07 EUR-12  
NEA-10 FEA-01 AGRE-00 CEA-01 CIAE-00 COME-00  
DODE-00 FRB-03 H-01 INR-07 INT-05 L-03 LAB-04  
NSAE-00 NSC-05 PA-01 EPG-02 AID-05 SS-15 STR-04  
ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01 /138 W  
-----002986 210357Z /15

R 201744Z JUL 77

FM USMISSION GENEVA

TO SECSTATE WASHDC 9449

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E.O. 11652: N/A

TAGS: GATT, ETRD

SUBJ: WP ON EXPORT INFLATION INSURANCE (EII)

REF: A. GENEVA 5858 B. STATE 144599

1. CHAIRMAN OF WORKING PARTY HAS SUPPLIED US WITH DRAFT REPORT OF WP (CIRCULATED TO ALL MEMBERS OF WP) AND A DRAFT CONCLUSION (GIVEN TO EC AND U.S.). THE MAIN BODY OF THE WP REPORT IS, AS THE CANADIAN DEL POINTS OUT, A MERE SKELETON OF THE ARGUMENTS ADVANCE IN THE WP. THE REPORT APPEARS TOO BALANCED AND LEAVES OUT MANY OF THE SELF-INCRIMINATING STATEMENTS MADE BY SOME DELEGATES WHOSE COUNTRIES MAINTAIN EII SCHEMES, PARTICULARLY FRANCE. WE AND CANADIANS AGREE THAT WE WILL NEED TO MAKE LONGER INTERVENTIONS AT JULY 25 MEETING THAN PLANNED IN ORDER TO STRENGTHEN CONDEMNATORY TONE OF WP REPORT. DRAFT REPORT FOCUS IS, HOWEVER, MAINLY ON EII AND TREATS EXCHANGE GUARANTEE SCHEMES IN CURSORY MANNER. WE EXPECT EC TO WANT SUBSTANTIAL EXPANSION OF THIS SECTION.

2. WP CONCLUSION DISTRIBUTED BY CHAIRMAN IS, IN HIS OWN WORDS, PROBABLY UNACCEPTABLE TO BOTH U.S. AND EC AND  
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OFFERED AS POINT OF DEPARTURE FOR EC-U.S. DISCUSSIONS.  
TEXT OF DRAFT CONCLUSION READS AS FOLLOWS: BEGIN QUOTE.  
THE WORKING PARTY COULD NOT REACH ANY UNANIMOUS CONCLUSION AS TO THE COMPATIBILITY OF THE EXPORT INFLATION INSURANCE SCHEMES WITH THE PROVISIONS OF THE GENERAL AGREEMENT. SOME MEMBERS OF THE WORKING PARTY HELD THE VIEW THAT EXPORT INFLATION INSURANCE SCHEMES WERE INCOM-

PATIBLE WITH THE PROVISIONS OF GATT BECAUSE THESE SCHEMES WERE SUBSIDIES IN CONTRAVENTION OF ARTICLE XVI:4, THAT THEY SHOULD BE NOTIFIED UNDER ARTICLE XVI:1, AND THAT THEY SHOULD BE DISMANTLED PROMPTLY. SOME OTHER MEMBERS OF THE WORKING PARTY HELD THE VIEW THAT EXPORT INFLATION INSURANCE SCHEMES WERE IN CONFORMITY WITH THE GENERAL AGREEMENT SINCE THEY WERE NOT SUBSIDIES AND SINCE NO EVIDENCE OF DUAL-PRICING HAD BEEN PRODUCED IN THE WORKING PARTY. IN VIEW OF THIS DIVERGENCE OF VIEWS, THE WORKING PARTY FELT THAT IT SHOULD LIMIT ITSELF TO REPORT THE OPINIONS EXPRESSED TO THE COMPETENT BODIES OF THE CONTRACTING PARTIES. END QUOTE.

3. IT IS CLEAR THAT THIS TEXT IS TOO NEUTRAL IN TONE, AND WE INTEND TO TELL THE EC THAT WE PREFER TO SUGGEST LANGUAGE FOR THOSE MEMBERS OF THE WP NOT MAINTAINING EII SCHEMES AND THE EC CAN SUGGEST LANGUAGE FOR THOSE PARAGRAPHS DEFENDING EII. AT SAME TIME WE ARE CIRCULATING LANGUAGE AS PER PARA 2, REF B, AMONG THOSE DELS SUPPORTING US IN ORDER TO OBTAIN AGREEMENT ON LANGUAGE CONDEMNING EII.

4. SUGGESTED CONCLUSION DOES EMPHASIZE ON IMPORTANT LEGAL POINT THAT U.S. SHOULD BE PREPARED TO ADDRESS. THIS IS THE CONTENTION THAT EII SCHEMES ARE NOT IN VIOLATION OF ART. XVI:4 BECAUSE EVIDENCE OF DUAL PRICING WAS NOT PRODUCED IN THE WP. AS WASHINGTON WILL RECALL, LIMITED OFFICIAL USE

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QUESTION OF DUAL PRICING WAS A PRINCIPAL POINT OF DEBATE IN DISC PANEL WHERE EC ARGUED AND PANEL APPEARED TO AGREE (SEE PARA 52-56 AND 72-74 OF L/4422) THAT THERE IS AN ASSUMPTION THAT DUAL PRICING EXISTS IF THERE IS AN EXPORT SUBSIDY. (PANEL REPORTS ON TAX PRACTICES OF NETHERLANDS, BELGIUM AND FRANCE HAVE SIMILAR LANGUAGE.) IN VIEW OF U.S. WILLINGNESS TO ACCEPT GATT COUNCIL ADOPTION OF THESE PANELS REPORTS, WE ASSUME U.S. DEL CAN ASSERT THAT SINCE EII SCHEMES ARE EXPORT SUBSIDIES, THERE IS AN ASSUMPTION OF DUAL PRICING AND THAT IT IS NOT NECESSARY TO PROVE IN THE WP THAT DUAL PRICING EXISTS. VANDEN HEUVEL

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## Message Attributes

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**Channel Indicators:** n/a  
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**Original Handling Restrictions:** n/a  
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**To:** STATE  
**Type:** TE  
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**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009